

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Patent of: | EVERETT E. SCHULZE, JR. | Confirmation No. | 4671 |
| Appl. No.: | 08/835,105 | Patent No.: | 6,233,564 |
| Appl. Filed: | April 4, 1997 | Issued: | May 15, 2001 |
| Group AU: | 2766 | Examiner: | HAYES, GAIL O. |
| For: | MERCHANDISING USING CONSUMER INFORMATION FROM SURVEYS | | |

**LOSS OF ENTITLEMENT TO SES AND
PETITION TO EXCUSE ERRORS IN SMALL ENTITY STATUS
AND ACCEPT PAYMENT OF FEES AS A LARGE ENTITY
UNDER 37 C.F.R. § 1.28(c)**

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

Pursuant to 37 C.F.R. §1.27(g)(2), the Patent Owner hereby informs the PTO that the above-identified patent is no longer eligible for small entity status.

Additionally, this is a petition under 37 C.F.R. § 1.28(c) to excuse errors in the inadvertent assertion of small entity status and to accept the payment of fees as a large entity for the above-identified patent.

37 C.F.R. § 1.28(c) provides a procedure as to how errors in small entity status are excused. If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small

entity status as required by § 1.27(g)(2), the error will be excused upon compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of 37 C.F.R. § 1.28(c), and the deficiency payment requirement of paragraph (c)(2) of this section:

(1) Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent; and

(2) The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

37 C.F.R. § 1.28(c) also states that:

(i) The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity.

(ii) An itemization of the total deficiency payment is required.

The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The present patent became a large entity on November 1, 2007. Notification of Loss of Entitlement was inadvertently not filed in the PTO and the 8th and 12th year maintenance fees were inadvertently paid in a small entity amount. During a review of the file history of the present application which was recently transferred to the Firm of the undersigned, it was discovered that the payment of maintenance fees was made inadvertently in a small entity amount.

According to the requirements of paragraphs (c)(1) and (c)(2) of 37 C.F.R. § 1.28(c), the Patent Owner submits the following:

(1) This paper is submitted herein specifically for U.S. Patent No. 6,233,564 and is limited to the deficiency payment for this patent.

(2) The required payment of deficiency owed for the 8th year of \$1,425 as set forth in 37 C.F.R. § 1.28(c) is enclosed herewith; and

(3) The required payment of deficiency owed for the 12th year of \$2,365 as set forth in 37 C.F.R. § 1.28(c) is enclosed herewith.

Accordingly, the Patent Owner provides the calculation of the deficiency owed according to paragraph (i) and the itemization of deficiency payment according to paragraphs (ii)(A)-(D) as follows:

(A) Type of fee that that was erroneously paid as a small entity along with the current fee amount for a non-small entity:

- (i) Current 8th Year Maintenance Fee for large entity: \$2,850 (Fee code 1552);
and
 - (ii) Current 12th Year Maintenance Fee for large entity: \$4,730 (Fee code 1553).
- (B) The small entity fee actually paid and when:
- (i) \$1,180 on June 20, 2008; and
 - (ii) \$2,365 on May 15, 2012.
- (C) The deficiency owed amount for fee erroneously paid:
- (i) \$1,670 (\$2,850 – 1,180); and
 - (ii) \$2,365 (\$4,730 – 2,365).
- (D) The total deficiency payment owed: \$4,035.

The Commissioner is hereby authorized to charge the \$3,790 fee and any additional fees, or credit any overpayment, to Deposit Account No. 50-2929, referencing Docket No: P2521363.

Should the Deciding Official have any questions or comments regarding this matter, the undersigned may be contacted at the below-listed telephone number.

Respectfully submitted,
Everett E. Schultz, Jr.

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